THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.31952 of 1997

Dated: 06.02.2007

Between:

Varigineni Narasimhulu S/o Guravayya

..... PETITIONER

AND

The Joint Collector, Prakasam District
and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.31952 of 1997

ORDER:

This writ petition is filed seeking mandamus declaring the order dated 11.04.1997 passed by the first respondent as arbitrary and illegal, and for a consequential direction to the respondents to issue pattedar passbook and title deed in respect of the land admeasuring Acs.8.13 cents in Sy.No.159/1 of Eguvapalli village H/o Vangapadu, Kanigiri Mandal, Prakasam District.

It is the case of the petitioner that in the year 1958, the land in question was assigned in favour of his father and he was in possession and enjoyment of the said land. After death of his father, the petitioner has been in possession and enjoyment of the said land, and he submitted an application to the second respondent to issue pattedar passbook in his name, but he did not do so. Therefore, the petitioner submitted another

application to the first respondent, but the first respondent, without affording any opportunity to him, dismissed the said application. Hence, this writ petition.

Heard the learned counsel for both the parties.

While issuing rule nisi on 27.12.1997, this Court granted interim suspension of the order, dated 11.04.1997, passed by the first respondent. A perusal of the impugned order shows that as per the records one Anumala Rama Subbaiah was recorded as a pattedar in respect of Sy.No.159/1 in an extent of Ac.8.13 cents and the petitioner was cultivating an extent of Ac.1.36 cents out of the said extent in the said survey number during faslies 1401, 1402 and 1403 along with eight others, and so far as faslies 1404 and 1405 are concerned, the land was fallow.

In the light of the said order, it is not known as to how the petitioner is entitled to a patta for an extent of Ac.8.13 cents in the said survey number. Further, in the impugned order it is clearly stated that during the course of enquiry, the petitioner, without producing any evidence, requested time and as such, the case was posted to 20.03.1997. From that date the case was again posted to 03.04.1997, on which date neither the petitioner nor his advocate were present. So, the contention of the petitioner that sufficient opportunity was not afforded to him, cannot be accepted. However, admittedly, the impugned order was passed in the absence of the petitioner and his counsel. In that view of the matter, I deem it appropriate to direct the first respondent to hold an enquiry into the status of the petitioner, on his submitting an application stating his grievance.

Accordingly, the writ petition is disposed of directing the petitioner to submit an application to the first respondent within a period of four weeks from the date of receipt of a copy of this order, and on such application being made, the first respondent shall hold an enquiry into the status of the petitioner. The petitioner shall produce documentary evidence establishing his entitlement for grant of pattedar passbook in an extent of Acs.8.13 cents in Sy.No.159/1 of Eguvapalli village H/o Vangapadu, Kanigiri Mandal. It is made clear that if the petitioner fails to make such an application and also fails to produce the documentary evidence, the order, dated 11.04.1997, passed by the first respondent, shall hold good. There shall be no order as to costs.

06.02.2007

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